IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 23RD MARCH 2007 / 2ND CHAITHRA 1929

Crl.MC.No. 781 of 2007()

CC.541/2005 of JUDL.MAGISTRATE OF FIRST CLASS-II, ERNAKULAM
CRIME NO.109/05 OF CENTRAL POLICE STATION, ERNAKULAM.

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PETITIONER: ACCUSED NOS.1 TO 4

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1. GIREESH, S/O. MANI, AGED 28 YEARS,
   PUNIAM HOUSE, CHERANADU DESOM, ARAMAYUR VILLAGE,
   PALAKKAD DISTRICT, NOW RESIDING AT C/O. PHILOMINA,
   AZHEPARAMBIL HOUSE, K.MURALI ROAD,
   KUMARANASHAN NAGAR, ELAMKULAM KARA, ELAMKULAM
   VILLAGE.

2. LEELA, W/O. MANI, AGED 48 YEARS,
   PUNIAM HOUSE, CHERANADU DESOM,
   ARAMAYUR VILLAGE, PALAKKAD DISTRICT.

3. SUBASH, S/O. MANI, AGED 25 YEARS,
   PUNIAM HOUSE, CHERANADU DESOM, ARAMAYUR VILLAGE,
   PALAKKAD DISTRICT, NOW RESIDING AT C/O PHILOMINA,
   AZHEPARAMBIL HOUSE, K.MURALI ROAD,
   KUMARANASHAN NAGAR, ELAMKULAM KARA,
   ELAMKULAM VILLAGE.

4. SATHEESH, S/O. MANI, AGED 23 YEARS,
   PUNIAM HOUSE, CHERANADU DESOM, ARAMAYUR VILLAGE,
   PALAKKAD DISTRICT, NOW RESIDING AT C/O. PHILOMINA,
   AZHEPARAMBIL HOUSE, K.MURALI ROAD,
   KUMARANASHAN NAGAR, ELAMKULAM KARA,
   ELAMKULAM VILLAGE.

BY ADV. SRI.P.M.ZIRAJ

RESPONDENTS: COMPLAINANT AND CW1

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1. STATE OF KERALA, REP. BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM, REP. BY SUB INSPECTOR OF POLICE,
   CENTRAL POLICE STATION, ERNAKULAM, IN CRIME NO.
   109 OF 2005.

2. SOBHA M.R., W/O. GIREESH, AGED 24 YEARS,
PRIVATE EMPLOYMENT, MOONNUMOOLAYIL HOUSE,
JAWAHAR NAGAR, KADAVANTHRA P.O.,
ELAMKULAM VILLAGE, KANAYANNOOR TALUK,
ERNAKULAM DISTRICT.

BY P.P. SRI. S.U. NAZAR.
BY ADV. SRI.ANWAR BASHEER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 781 OF 2007

Dated this the 23rd day of March, 2007

ORDER

The petitioners face indictment in a prosecution under Sec.498A read with Sec.34 of the IPC. Cognizance has been taken on the basis of a final report submitted by the police after due investigation. Investigation commenced on the complaint of the 2nd respondent in this petition. The 1st petitioner is the husband of the 2nd respondent and petitioners 2 to 4 are the relatives of the 1st petitioner.

2. The petitioners have come to this Court along with the 2nd respondent to apprise this Court of the fact that the disputes between the parties have been amicably settled and that the 2nd respondent has compounded the offences allegedly committed by the petitioners. The spouses have resumed cohabitation harmoniously and they are living along with their minor daughter. In these circumstances, the

continuance of the prosecution is turning out to be an unnecessary irritant in the harmonious relationship between the spouses and in these circumstances, it is prayed that the extraordinary inherent powers under Sec.482 of the Cr.P.C. may be invoked to bring to premature termination the prosecution against the petitioners.

3. The 2nd respondent has entered appearance through counsel. She has filed an affidavit which is produced as Annexure-III. Her counsel vouches for the signature of the 2nd respondent in the affidavit produced as Annexure-III.

4. I am satisfied, in these circumstances, that the matter has been amicably settled and the 1st petitioner and the 2nd respondent have resumed cohabitation. The offence under Sec.498A of the IPC is not compoundable. But the learned counsel submits that the decision in **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386) justifies the invocation of the powers under Sec.482 of the Cr.P.C. The rationale underlying the said decision is that the interests of justice may at times transcend the interests of mere law and in such exceptional cases powers under Sec.482 of the Cr.P.C. can be invoked and Sec.320 of the Cr.P.C. cannot be a fetter to the invocation of

such power.

5. I am satisfied that this is an eminently fit case where the harmonious settlement of the disputes between the spouses can be accepted and the proceedings brought to premature termination.

6. In the result:

(i) This Crl.M.C. is allowed.

(ii) C.C.No.541/05 pending before the Judicial Magistrate of the First Class-II, Ernakulam, against the petitioners is hereby quashed.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge